

Serial No.: 10/800,226  
Atty. Docket No.: D5292

### REMARKS

In the Action the Examiner examined claims 1-9. The drawings were objected to stemming from several instances in the specification where the reference numerals "24" and "26" were interchangeably used in reference to the "fuel tank" and "filler neck". The Examiner required corrected drawings. The drawings were further objected to for failure to discuss reference numeral "16" in the specification. The specification was objected to because section headings were underlined. Claims 1-9 were rejected as obvious under 35 U.S.C. 103(a). Claims 1-3, 5 and 8-9 were rejected over Tamura (US 4,676,517) in view of Palvölgyi (US 6,286,559) and claims 4, 6 and 7 were rejected on the basis of the same art further in view of Choma et al. (US 5,253,773).

The specification has been amended to address the objections to the drawings and to the specification. No new matter is believed introduced by the amendments. More particularly, the specification has been amended to assure reference numerals "24" and "26" are consistently used and to link the reference numeral "16" to a bus body. Since a bus body is unmistakably shown in the drawings no new matter is introduced by this change. The section headings have been amended to delete the underlining. The applicant notes that the proposed amendments are not underlined, but notes that underlining them would cause the amended material to look exactly like what it is intended to replace, and requests liberality in treatment in this regard.

Claims 1 and 5 have been substantively amended to overcome the art. Claims 2, 3 and 6 have been canceled to further prosecution of the application. The limitations of claims 2, 3 and 6 have been incorporated in claims 1 or 5. Claims 1, 4, 5, 7, 8 and 9 remain active.

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Applicants differ with some aspects of the Examiner's analysis of the art and additionally offers a few comments regarding aspects of the cited art believed pertinent to the application, but which were not discussed. The Tamura '517 patent relates to a venting arrangement for fuel tank installed under the rear seat of a passenger car. The Examiner contends that the '517 patent teaches a fuel tank, supported by frame rails under the vehicle floor. A filler neck to the tank has an inlet along a side of the vehicle, an intermediate section connecting the inlet to an outlet and an outlet to the fuel tank. The inlet and outlet sections have circular cross sections. A close reading of the '517 patent does not indicate how the fuel tank is supported though it may be inferred that it is supported from the side rails. It should be observed that the filler necks or pipes 5 (in Fig. 2) and 25 (in Fig. 3, marked prior art) both pass under one of the vehicle's side rails (3 or 23). The filler necks are routed through a wheel well so as to pass under a "bent up portion" of the side member. In the invention which is subject to the present application the filler neck must pass above the side rail and under a floor (See Figs. 3A, 6). The Examiner's argument that it is a matter of design choice as to whether to route the filler pipe over or under the frame rail misses a point of the invention, which is how to fit the pipe between the rail and floor and not overly constrict flow through the pipe.

The Palvölgyi '559 patent relates to motor vehicle onboard vapor recovery during vehicle fueling. The prior art described in the patent provided for a filler pipe to the fuel tank having a mid-section of reduced diameter to cause a fuel back up in the pipe during fueling. The backed up fuel in turn acts as a seal to trap vapors. The Palvölgyi '559 patent provided beads instead of an overall constriction to prevent fuel from developing helical, and thus overly constricting, flow. The Palvölgyi '559 patent teaches that there "is no expansion of the pipe in the circumferential direction" and accordingly the provision of beads, even if distributed to produce an oblong conduit, reduces the cross sectional area of the conduit.

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The Choma et al. '773 patent is cited as providing a filler tube having "a plurality of sections of varying diameters" and "a greater cross sectional area at the outlet of the tube section than at the inlet" citing reference numerals 16, 18, 20. Here the Examiner mistook the third section 20 as being the final section or outlet portion of the filler tube. In fact the outlet comes at the trailing end 30 of a fourth section or "reduced diameter portion 28" (See column 2, lines 19-24, Figs. 1 and 2). Hence the claim that the outlet has a "greater cross sectional area" than the inlet is totally without support in the patent.

Claims 1 and 5 are asserted to be not obvious because there is no ground for combining the Tamura '517 and Palvölgyi '559 patents to teach the invention as claimed and the patents, even if combined, fail to teach all of the elements of the claims. Both claims 1 and 5 now recite variance of the cross sectional shape without loss of area to accommodate fitting the filler neck between a frame rail and a vehicle floor. Neither of the cited references deals with this issue and neither shows such a variation in shape specifically tied to what portion of the vehicle the filler pipe is adjacent. Neither reference teaches avoiding restricting cross sectional area of a filler pipe. There is no basis in either reference for incorporating a change in filler pipe shape adjacent a vehicle frame rail to fit the pipe to this area of a vehicle.

Regarding claims 4 and 5, the claims, as amended, require increasing cross sectional area of the filler pipe at the outlet into the tank. The Choma et al. '773 patent teaches constricting the area of the outlet, directly contrary to the claims. Claim 7 still further requires that the portion of the pipe adjacent the frame rail have a larger cross sectional area than the inlet section, which is directly contrary to the '559 patent.

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The remaining dependent claims distinguish still further over the art of record. Applicants believe the Claims as amended are in condition for allowance and respectfully request favorable action by the Examiner.

Respectfully submitted,



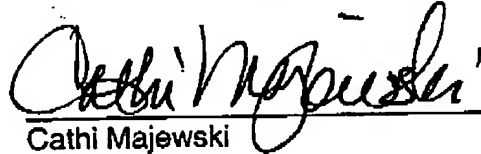
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**CERTIFICATE OF TRANSMISSION UNDER 37 CFR §1.8**

I hereby certify that this **AMENDMENT UNDER 37 CFR §1.111** is being facsimile transmitted to the Patent and Trademark Office on or before 10/25/05 to (571) 273-8300.

Date: 10/25/05

  
Cathi Majewski